Con contentions

Hello everyone, my name is Arjun Chopra and my partner, Priscilla Sharma and I stand in strong negation of the resolution: Resolved: NCAA student athletes ought to be recognized as employees under the Fair Labor Standards Act. As we support the con case, our opponents bare the burden of proof and must prove to us and the judge that NCAA student athletes ought to be recognized as employees under the Fair Labor Standards Act.

Before I begin, I would like to provide a road map of my Introductory Negation Case. I will first prove to you that NCAA student athletes are not employees legally, then I will prove to you that NCAa student athletes are not morally employees, and finally, I will prove that recognizing NCAA student athletes as employees would be incredibly fiscally harmful to colleges.

Contention [1]: NCAA student athletes are not legally employees as defined under the Fair Labor Standards Act.

Sub Point a: Case Law. NCAA student athletes are not legally employees as defined by the recent court case Berger v. the NCAA. Gillian Berger sued the NCAA over the pretense that student athletes are employees under the Fair Labor Standards Act. The case was brought before the Seventh Circuit Court, the NCAA proposed a motion to dismiss and the district court granted said motion as they *“hold that student athletes are not employees and are not covered by the FLSA.”* This proves that NCAA student athletes are not legally employees.

Sub Point b: Military athletes. As written in the Fair Labor Standards act, *“Except as... a civilian in the military departments (as defined in section 102 of title 5) “employee” means any individual employed by an employer.” Section 102 of title 5”* states “*the military departments are || the department of the army || the department of the navy [and] || the department of the air force.”* From the Legal Information institute: *‘This section is supplied to avoid the necessity for defining “military departments.”’* This proves that NCAA student athletes are not legally employees as according to the NCAA all three of the military academies are division one colleges. As proven, NCAA student athletes cannot be defined as employees under the Fair Labor Standards Act as that enactment would clash with existing legislature

Contention [2]: NCAA student athletes are not be morally employees as defined under the Fair Labor Standards Act.

Subpoint a: Extracurriculars. According to the seventh circuit court, NCAA athletics are extracurricular activities. This was the reasoning the court used in order to determine the verdict of the previously mentioned Gillian v The NCAA. This same reasoning is used by the Ivy league schools who determined not to give scholarship priority that athletes. Because NCAA athletics are the extracurricular activities, by the authority of the categorical imperative under the ethical contractarianism theory in order to recognize NCAA athletes as employees under the Fair Labor Standards Act all other extracurricular activities, from debaters like us to musicians or other artists must also be recognized as employees under the Fair Labor Standards Act.

Subpoint b: Shifting Focus. Apart from the ethical concerns regarding fairness, we must accept that colleges and universities are places of learning. By recognizing NCAA student athletes as employees under the Fair Labor Standards Act more priority is given to athletics than other priorities. This will cause the focus of student athletes to move from academics to athletics. This shifting focus is detrimental to student athletes and under the authority of utilitarianism we should not enact legislation that would not benefit those it applies to.

Subpoint c: Amateurism. The NCAA fundamental policy states “intercollegiate athletics [is]. . .an integral part of the educational program and the athlete [is]. . an integral part of the student body and, by doing so, retain a clear line of demarcation between intercollegiate athletics and professional sports.” This is the reference used often by the NCAA as in relation to their amateurism policy that states that NCAA collegiate athletes must have never been a professional athlete, defined as athletes that have been paid for their services. By recognizing athletes under the Fair Labor Standards Act their employers must pay them a minimum wage. The act of paying an athlete makes them unfit to be an amateur. To recognize student athletes under the FLSA would be in gross breach of the principles of amateurism set forth by the NCAA for this reason, it would be unethical to recognize NCAA student athletes under the Fair Labor Standards Act as it would be in gross breach of the principles of contractarianism.

Contention [3]: It would be fiscally harmful to recognize NCAA student athletes as employees under the Fair Labor Standards Act.

Sub Point a: There is no free lunch. Under the resolution, if NCAA student athletes are recognized as employees under the Fair Labor Standards Act they would have to be paid at least minimum wage and overtime. Currently the federal minimum wage is 7 dollars and 25 cents per hour must be paid for 40 hours and beyond 40 hours must be paid at least 14 dollars and 50 cents per hour. The average NCAA athlete devotes 43.3 hours to practice a week. When factoring this into the minimum wage the average NCAA athlete would have to be paid 3 hundred 37 dollars and 85 cents per week. But per annum, they would have to be paid 17 thousand 5 hundred 68 dollars and 20 cents. This may not seem like a lot of money, however when we multiply this 17 thousand 5 hundred 68 dollars and 20 cents by the 4 hundred and 60 thousand student athletes who are a part of the NCAA, the member schools would have to pay 8 billion 81 million 372 thousand dollars in total. This would place immense strain on universities where tuition is already very expensive. Being forced to pay athletes would force them to increase tuition rates making it much more difficult for young adults to go to university and acquire a degree in higher education, something that is increasingly imperative for success in today's job economy.

Sub Point b: Payment. According to the NCAA, 56% of Division 1 athletes and 61% of Division 2 athletes are receiving sports scholarships, and while Division 3 schools do not give athletic scholarships, 82% of them are on another scholarship. NCAA athletes are also supported with many other resources that would be costly for other students. The NCAA funds an insurance policy which covers any large injuries that athletes might face in their sport, which has provided students with over $20 million in care. They also pay for a Student Assistance Fund which spends more than $80 million per year giving Division 1 Athletes essentials and these schools also often fund entire meal plans, giving athletes unlimited meals. This in total amounts to an alarmingly high amount of compensation and by recognizing student athletes as employees would add another 8.1 billion dollars of payment, does this seem fair, Collegiate athletics are amateur based, and by supporting this resolution you are supporting a broken, and morally wrong system.

In conclusion, because: It would be fiscally harmful, it is morally wrong, and is illegal for NCAA student athletes to be recognized as employees under the Fair Labor Standards act. My partner and I stand in negation of the aforementioned resolution we strongly urge a con ballot. Thank you.